

OFFICE OF THE CLERK,  
HOUSE OF REPRESENTATIVES,  
Washington, DC, November 7, 2017.

Hon. PAUL D. RYAN,  
*The Speaker, House of Representatives,*  
Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on November 7, 2017, at 9:47 a.m.:

That the Senate passed with an amendment H.R. 1370.

That the Senate passed without amendment H.R. 3031.

With best wishes, I am

Sincerely,

KAREN L. HAAS.

**PROVIDING FOR CONSIDERATION  
OF H.R. 3043, HYDROPOWER POLICY  
MODERNIZATION ACT OF  
2017, AND PROVIDING FOR CON-  
SIDERATION OF H.R. 3441, SAVE  
LOCAL BUSINESS ACT**

Mr. BYRNE. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 607 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

**H. RES. 607**

*Resolved*, That at any time after adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 3043) to modernize hydropower policy, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chair and ranking minority member of the Committee on Energy and Commerce. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Energy and Commerce now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each such amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as

ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. Upon adoption of this resolution it shall be in order to consider in the House the bill (H.R. 3441) to clarify the treatment of two or more employers as joint employers under the National Labor Relations Act and the Fair Labor Standards Act of 1938. All points of order against consideration of the bill are waived. The amendment in the nature of a substitute recommended by the Committee on Education and the Workforce now printed in the bill shall be considered as adopted. The bill, as amended, shall be considered as read. All points of order against provisions in the bill, as amended, are waived. The previous question shall be considered as ordered on the bill, as amended, and on any further amendment thereto, to final passage without intervening motion except: (1) one hour of debate equally divided and controlled by the chair and ranking minority member of the Committee on Education and the Workforce; and (2) one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Alabama is recognized for 1 hour.

Mr. BYRNE. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MCGOVERN), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

**GENERAL LEAVE**

Mr. BYRNE. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

Mr. BYRNE. Mr. Speaker, House Resolution 607 provides for consideration of H.R. 3043, the Hydropower Policy Modernization Act of 2017, and H.R. 3441, the Save Local Business Act.

H.R. 3043 would modernize Federal regulatory permitting processes for the licensing of hydropower projects. Specifically, the bill would designate the Federal Energy Regulatory Commission, or FERC, as the lead agency for these projects.

I am a proud supporter of an all-of-the-above energy strategy that allows for not only American energy independence, but for American energy dominance.

□ 1230

Hydropower should be a part of that strategy. In the Pacific Northwest especially, hydropower is a clean and reliable energy source that is particularly abundant. There is remarkable potential for the hydropower industry in this region and around the United States.

In 2015, hydropower accounted for approximately 6 percent of total U.S. electricity generation and 46 percent of electricity generation from renewable sources. However, less than 3 percent of dams in the U.S. produce electricity. That shows just how great the potential is here.

Through this legislation, we can help ease regulatory burdens and streamline the permitting process by naming FERC as the lead agency for coordinating all Federal authorizations. This will result in balanced and more timely decisionmaking and reduce the current duplicative oversight regime.

So how does this benefit the average American?

Well, having a reliable power source is essential to the world today.

Even more, this legislation also has the potential to lower energy costs and create good-paying jobs. By doing so, we can help Americans put away and keep more of their hard-earned money.

Currently, the hydropower industry employs a workforce of approximately 143,000 people, and that number would certainly rise under this legislation as we unlock our full potential.

Now, some of my colleagues have expressed concerns that this legislation could hurt the environment, so I want to address that.

First, hydropower is an entirely clean source of renewable energy. Increasing hydropower production actually helps protect the environment and promote better public health.

Second, the legislation makes clear that these permitting reforms should have no effect on this Clean Water Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the Rivers and Harbors Act, and the National Historic Preservation Act. Those laws and their protections will remain in place.

This is simply about promoting a reliable power source, lowering energy costs, creating jobs, and unlocking the full potential of an all-of-the-above energy strategy.

Mr. Speaker, I will also note that this rule will provide for consideration of four amendments to H.R. 3043, including one minority and one bipartisan amendment.

The other bill covered by the rule is H.R. 3441, the Save Local Business Act. As the sponsor of this legislation, I am thrilled to see this body taking action to protect millions of jobs and provide clarity to America's workers.

Jesus said that no man can serve two masters, and there is real wisdom behind what He said as there is wisdom behind everything He said. His teachings are important every day, but that basic principle seems particularly important in the context of this legislation.

For decades, there was a common-sense legal test that determined when two or more separate businesses could be considered joint employers and held jointly responsible for the same group of employees. Employers had to share direct and immediate control over essential terms and conditions of employment. As a former labor and employment attorney who practiced in this area for decades, I can assure you this was the standard that everyone knew and appreciated.

Well, in 2015, the activist National Labor Relations Board issued a ruling

in Browning-Ferris Industries that upended this cornerstone of Federal labor law and created a vague and totally unworkable new joint employer policy.

Making matters even worse and more complicated, Federal agencies then incorporated the new standard in their regulatory agenda. Under this new standard, two independent businesses could be considered joint employers if they make a business agreement that “indirectly” or “potentially” impacts their employees. Under some of these standards, you can actually be reserved power.

Just think about the uncertainty and ambiguity this standard could cause. It is hard enough for people to even agree on what exactly those terms mean. Imagine how confusing it is for Main Street businesses to understand and follow that.

This is not some abstract issue. In fact, I have been hearing and talking with job creators and workers in my district about this for years. I have sat around the restaurant tables and heard real stories and concerns.

Bob Omainsky, the owner of Wintzell’s Oyster House in my home district, had this to say about the confusion caused by the new joint-employer standard: “If we hire an outside landscaping company to keep our lawns lush, I could be considered a joint employer if I show the landscapers where to mow. Or, if I contract a food supplier for certain ingredients, I could become part of a lawsuit if one of their workers complains about overtime pay. The uncertainty is nothing more than governmental overreach that is crippling eateries like Wintzell’s and discouraging growth throughout the restaurant industry.”

This story and example is not unique to my district. These stories exist all over the country from Seattle, Washington, to Miami, Florida; and we heard a whole bunch of them in the hearings that we held in committee. This is why this bill has earned support from both sides of the aisle. This is not a partisan issue, but instead this is about protecting jobs and providing clarity to workers.

Workers shouldn’t have to wonder who their employer is. They deserve better than a vague and confusing rule that the American Action Forum found threatens 1.7 million jobs. Even the Progressive Policy Institute issued a statement saying the expanded standard “may do more harm than good.”

I also want to make one thing perfectly clear: this legislation does not remove a single worker protection. All worker protections provided by the National Labor Relations Act, the Fair Labor Standards Act, and the Equal Pay Act remain unchanged and are still available.

I also want to dispel the myth that this legislation is some departure from the norm. In fact, this legislation simply restores the agreed-upon legal standard that existed for decades.

The reality is that the new standard has created so much confusion and am-

biguity that no one really knows what the law is. There are at least nine different legal tests nationwide to determine joint employer status under the Fair Labor Standards Act, and there are more to come.

This patchwork of standards creates regulatory uncertainty, especially for job creators doing businesses in multiple States. Ultimately, this legislation is about providing clarity to workers and job creators. It is about protecting the rights of workers and ensuring employers have clarity on their responsibilities to their employees, and it is about preserving the small businesses that are the backbone of our local communities.

Mr. Speaker, I urge my colleagues to support House Resolution 607 and the underlying bills, and I reserve the balance of my time.

Mr. MCGOVERN. Mr. Speaker, I thank the gentleman from Alabama (Mr. BYRNE) for yielding me the customary 30 minutes, and I yield myself such time as I may consume.

(Mr. MCGOVERN asked and was given permission to revise and extend his remarks.)

Mr. MCGOVERN. Mr. Speaker, I rise in strong opposition to this rule, which provides for consideration of two deeply flawed pieces of legislation.

H.R. 3043, the Hydropower Policy Modernization Act of 2017, is yet another attempt by this Republican majority to prioritize corporate profits over ensuring people have access to safe and clean drinking water.

This bill would not only threaten our clean water, it would also undermine States’ rights and Tribal rights by prioritizing power generation above all else when deciding whether to grant or extend a license to operate a hydropower project.

Simply put, this bill puts profits ahead of the public interest. By giving a rubber stamp commission more power than other expert agencies, the bill rigs the process in favor of power producers at the expense of States, Tribes, and our environment.

This bill prioritizes profits over clean water and healthy fisheries and should be strongly defeated. Protecting our families and our environment should always be our first priority.

In another giveaway to corporate interests, House Republicans are also bringing to the floor this week H.R. 3441, the so-called Save Local Business Act, under the false claim that it eliminates uncertainty for workers and protects small businesses.

The truth is a very different story, Mr. Speaker. Joint employment standards ensure workers can hold employers accountable for violating wage and hour laws, child labor, or refusing to collectively bargain. This bill represents a significant and dangerous break from that standard and would undermine the rights of American workers.

This legislation rewards companies that rent employees from staffing

agencies instead of hiring them directly, and allows them to evade responsibility for upholding the rights of those employees, even though they profit from their work.

This bill is not about helping workers or small businesses. This is all about giving powerful companies even more power over their employees.

But, Mr. Speaker, what is just as troubling as the content of the underlying bills is the process Speaker RYAN and his Republican leadership team routinely use to call up this terrible legislation.

Today we are considering the 49th completely closed rule of the 115th Congress. That is right. Today House Republicans are breaking their own record for the most closed session of Congress in history. It is astounding. This is something you would celebrate in Putin’s Russia, not here in the United States.

Since he first took the gavel in 2015, Speaker RYAN has continue to shamelessly break his promise to allow a fair and open legislative process here in this House.

In Speaker RYAN’s first speech as Speaker in October of 2015, he said: “We need to let every Member contribute. . . . Open up the process. Let people participate. A neglected minority will gum up the works. A respected minority will work in good faith. Instead of trying to stop the majority, they might try to become the majority.”

Speaker RYAN and I disagree on a great many issues, but I strongly agree with what he said in that 2015 speech. We do need to let every Member contribute and open up the process here in the House. We do need the majority party to respect the minority party so we can actually work together on bipartisan solutions.

But in the 2 years since Speaker RYAN took the gavel, he has, sadly, failed to deliver on his commitment to open up the legislative process. Things have only gotten worse. In fact, Speaker RYAN is the only Speaker who has not allowed a truly open rule to give Members the opportunity and the chance to do what their constituents sent them here to do and to offer different perspectives and ideas on how to improve legislation.

With each new closed rule they bring to the floor, shutting out amendments from both Democrats and Republicans, the cynical hypocrisy grows louder and louder. Instead of the people’s House, this has, sadly, become “only the people who agree with PAUL RYAN’s House.”

I guess my question for the Speaker would be: Did you mean any of what you said? Did you forget all those promises you made? Or did you have absolutely no intention of keeping those promises once you were in power?”

Every single Member of this House of Representatives was elected to represent the people of their district, but

we cannot do that if the party in the majority blatantly uses strong-arm tactics like these that prevent us from doing our jobs.

In 2015, Speaker RYAN also said: “We need to return to regular order. We are the body closest to the people. Every 2 years, we face the voters. . . . We represent them. We are supposed to study up and do the homework that they cannot do. So when we do not follow regular order—when we rush to pass bills a lot of us do not understand—we are not doing our job. Only a fully functioning House can truly represent the people.”

Where do I begin?

Literally just a few months ago, Speaker RYAN and the Republican leaders of this House were recklessly steamrolling their healthcare bill to the House floor without holding anything close to the number of hearings that we held when the Affordable Care Act was passed.

Instead, they led a haphazard process where the bill was drafted in secret behind closed doors—locked doors—without any input from rank and file Members of Congress and the American people. Mr. Speaker, that is not regular order. That is unconscionable. That disrespects this House.

Today, when asked by a reporter about this record-breaking closed process, Speaker RYAN responded: “Absolutely we have an open process.”

Really?

Let’s review his record this Congress: Zero open rules—zero. Forty-nine completely closed rules.

Open process?

Open process my foot, Mr. Speaker.

I guess in the age of Donald Trump, words simply don’t matter anymore. Black is white, up is down, open is closed, and politicians can say whatever they think sounds good and they think they can get away with it—facts be damned.

If Speaker RYAN were serious about a fair and open process, he would not turn this House into a rubber stamp for Donald Trump. He would let us be the independent voice the people of our districts elected us to be. He would not routinely shut out the voices of Democrats and Republicans. He would let this House actually debate the serious legislation and issues that come before us.

□ 1245

With one closed rule after another on each bill that comes to the floor, Speaker RYAN has completely shut out both Democrats and rank-and-file Republicans, routinely blocking amendments we offer.

This is not how the Congress is supposed to work. Our constituents deserve a Congress that actually debates the bills that will affect their lives. They deserve better.

I refuse to sit by while the Republican leadership makes a mockery of this House. American voices will not be silenced.

The Speaker may grant promises of openness, inclusiveness, and regular order, but we just lived through the most closed year in the history of this institution, and the year isn’t even over yet, Mr. Speaker.

Republicans ought to remember that they will not always be in the majority. I don’t think a Democratic majority could be this bad on basic process, even if we tried. But any Member who votes for this record-breaking closed rule today had better not have crocodile tears for regular order and openness when they find themselves in the minority some day in the future. Anyone who supports 49 closed rules and zero open rules in a single year loses all credibility on the issue of openness.

My Republican friends should be ashamed—ashamed—of diminishing this House and diminishing its Members and their thoughtful ideas. I urge Democrats and Republicans to take a stand and vote “no” on this closed rule.

Mr. Speaker, I reserve the balance of my time.

Mr. BYRNE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am extremely proud of the work that the Rules Committee has done this year and of the leadership in this Congress and how we have handled legislation.

Unlike our Democratic colleagues who would shut the doors and refuse to accept late amendments from Members, the chairman of our committee has made it a point to ensure every single Member has the opportunity to submit their amendments and come to the committee to share their thoughts and concerns.

Under this model of transparency and openness, the committee has spent countless hours listening and considering Member testimony. In fact, we have welcomed over 330 Members to testify, this Congress alone, before the Rules Committee. We have made in order 864 amendments, including 403 from Democrats, 341 from Republicans, and 120 bipartisan amendments.

Unfortunately, our friends across the aisle have become more interested in derailing legislation than actually improving legislation. For example, Democrats politicized an open appropriations process by offering poison pill amendments meant to kill legislation they had no intention of supporting, regardless of the outcome.

These tactics have fundamentally changed the way we do business. Instead of offering thoughtful ideas intended to shape a measure, their dilatory tactics are for one purpose and one purpose only: to score political points.

The Rules Committee will not let these political games get in the way of fulfilling the promises we made to the American people who elected this majority. That is why the chairman of our committee has made it a priority to listen to all Members. I would ask all of you who come to the Rules Com-

mittee to watch our committee listening to all Members.

We are also committed to moving the majority’s pro-growth agenda forward. As a result of our efforts, we have had a record of success in this House. To date, we have passed almost 400 bills out of the House.

This further underscores that the House is here to work, we are here to serve, and we are here to get results. But the proof is in the facts. John Adams said: “Facts are stubborn things.”

As of November 7 of this year, in just the first session of this Congress, we have provided for the consideration of 864 amendments on the House floor. Under Speaker PELOSI, during the entirety of the 111th Congress, both sessions, she had only made in order 778. You tell me who has an open House and who had a closed House.

There is no shame on this side at all. There is great pride in the work we are doing for the American people, and we are not going to let anyone get in the way of our making sure that we fulfill the promises we made.

Mr. Speaker, I yield 5 minutes to the gentleman from Washington (Mr. NEWHOUSE), a distinguished member of the Rules Committee.

Mr. NEWHOUSE. Mr. Speaker, first, I want to thank my friend, the gentleman from Alabama, for letting me participate in this very important debate today.

Mr. Speaker, I rise in support of the rule, but specifically to voice my very strong support for one of the bills of the underlying legislation. That would be H.R. 3043, which is the Hydropower Policy Modernization Act of 2017.

This legislation, which is sponsored and spearheaded by my good friend and fellow Washingtonian, Representative CATHY MCMORRIS RODGERS, will improve the licensing process for U.S. hydropower resources by promoting accountability as well as transparency, by requiring greater cooperation among Federal and State agencies, as well as by reducing needless duplication of efforts.

Mr. Speaker, I am a strong, steadfast supporter of hydropower—I admit that—which, as America’s first renewable electricity source, has provided our country with low-cost, clean, reliable energy for over a century. In my own home State of Washington, nearly 70 percent of our energy is derived from hydropower.

While there are still some misguided, extreme efforts to breach our dams and remove these critical sources of electric generation, I believe we need to increase our use of clean and renewable resources. By passing the Hydropower Policy Modernization Act, we can take a very major step in doing just that.

Mr. Speaker, FERC, or the Federal Energy Regulatory Commission, serves as the lead agency to coordinate hydropower reviews and convene stakeholders to participate in collaborative,

transparent public proceedings. However, FERC lacks the authority to improve the hydropower licensing process, including the ability to resolve disputes among agencies and enforce scheduling deadlines.

Far too often, it is those Federal and State agencies, as well as other bureaucratic bodies, that stand in the way of moving these licensing efforts forward. In fact, in response to a House Energy and Commerce Committee's subcommittee hearing, FERC reported that there are 26 separate cases where the Commission has finished its environmental review and is currently waiting for action to be completed by another agency before FERC can issue a decision on any particular project.

Mr. Speaker, the licensing process for these projects should not be taking 10 years or more. Natural gas-fired facilities and other carbon-based energy sources are being approved in considerably less time. Meanwhile, less than 3 percent of the dams in this country produce electricity.

I will continue to support efforts to increase hydropower generation that will provide our country with reliable, stable, and clean energy. We can usher in a new era of U.S. energy independence derived from our very first renewable energy source by streamlining these processes.

I urge all of my colleagues to support this rule and, particularly, its underlying legislation, H.R. 3043, the Hydropower Policy Modernization Act of 2017.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thought I had heard everything. The gentleman from Alabama got up and said how proud he is of the Rules Committee and of the process in this House. Oh, my God. The fact that the gentleman would get up and say that with a straight face, you take my breath away. It is unbelievable.

Today, we are considering our 49th closed rule of the 115th Congress, officially making this the most closed session in Congress in history, and the gentleman is proud of that.

More than half of the rules Republicans have reported out of the Rules Committee have not allowed any amendments. That means that no Member, Democrat or Republican, can offer their ideas on the House floor.

The gentleman says: Well, we want to prevent killer amendments from being made in order. So all the Republicans that offer amendments to the Rules Committee have killer amendments? It is ridiculous to say that about the Democratic amendments.

In total, just so the gentleman understands this, in total, the Rules Committee has blocked more than 1,300 amendments this year. That is 1,300. They are all killer amendments? They are all not deserving of a debate in the people's House?

They blocked 1,300 amendments, including 955 Democratic amendments.

You blocked 260 Republican amendments and 121 bipartisan amendments.

Blocking these amendments has a very real impact. A bad process produces bad policy. Shutting out input from the vast majority of Members, both Democrats and Republicans, may make it easier for you to jam your agenda through the House, but that speed comes at the expense of the policy itself.

When you block amendments, you are shutting down debate on incredibly important issues, issues that this House of Representatives should be debating and voting on.

Here are a few examples of germane amendments that the majority didn't think were worthy of a debate and an up-or-down vote in the House. These were totally in order.

There is my bipartisan amendment to require a Presidential determination and congressional action to increase troop levels in Afghanistan. With the longest war in American history, I thought maybe it was worth some debate, but the Rules Committee said no to that.

Also, a bipartisan amendment to phase out the 2001 Authorization for Use of Military Force, they blocked that.

Also, an amendment to ensure that the U.S. doesn't withdraw from the Paris climate agreement—I know my Republican friends think climate change is a hoax. They don't believe in science. But, you know what? You ought to have the guts to debate it. But you blocked it.

You blocked an amendment for funding for troops in Syria.

You blocked an amendment to create the National Russian Threat Response Center.

The list goes on and on and on.

These aren't killer amendments. These are important issues that get blocked time and time again. These issues are at the very core of our responsibilities here in Congress, and you blocked them from even being considered by the full House.

In this Congress, the majority has blocked over 1,300 amendments from coming to the floor. You are proud of that? That is disgraceful.

I truly hope that breaking the closed rule record is a wake-up call and that some of you over there will decide to do things a little bit differently around here and a little bit better around here, starting next week with your tax bill, but I am not going to hold my breath.

Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. ELLISON).

The SPEAKER pro tempore. The Chair would request that all Members direct their remarks to the Chair.

Mr. ELLISON. Mr. Speaker, I urge Members to vote "no" on the Republican effort to roll back the joint-employer rule that the Obama administration promulgated. This joint-employer rule is an attack on workers, and it is an attack on franchisee businesses.

For people watching, Mr. Speaker, understand that when a franchisor, the big headquarters, tells a franchisee, "You have got to do every single thing we tell you. You basically work for us. We are going to tell you the size of the sandwich. We are going to tell you the kind of oil to use. We are going to tell you how to schedule your workers. We are going to, basically, control your enterprise, though you are supposed to be an independent business," the Obama administration said, "We are going to treat you as if you are joint employers." So if there is wage theft or there is unfairness on the job or some problem that comes up with workers, then the big company, the headquarters, will also be held responsible for solving the problem.

What the Republicans do today, Mr. Speaker, is say: "No, we might impose all these conditions on you per the franchisee agreement, but, if there are problems, it is going to be your problem, franchisee."

This is absolutely unfair. As workers are going all over this country trying to get higher wages, this is a whole movement for them to get livable wage for people who work every single day at our fast-food chains. They are going to their local franchisee owners to ask for those wages.

But if the franchisor says: "You can't pay any more than this. We are going to restrict you in multiple number of ways. We are going to make you sell food items at a cost that you can't even sustain, like the dollar menu"—those things cost more than a dollar, folks. But if the big headquarters says you have got to charge a dollar as a promotion, then the franchisee has to eat that.

But when workers need more money, the big company makes that impossible, and then workers are left holding the bag along with the franchisee.

The joint-employer rule, holding both sides responsible for those wage thefts to pay for hours, these things make a more fair process and require the big headquarters to take responsibility as well.

I urge a "no" vote on this. This is an anti-small business bill. This is somewhat surprising to me, given that my friends on the other side of the aisle say they are for small business, but, really, they are just for big business. If you have any doubts about that, all you have got to do is look at this tax bill they are putting out there.

Mr. BYRNE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, when I was giving the statistics earlier, I left one very important one out. I can't believe I forgot this.

Of the almost 400 bills we passed in this House this year, 80 percent of them have been bipartisan. So this record production of bills we have had in the House this year has benefited both sides of the aisle as we have

worked together to come up with commonsense policies for the American people.

□ 1300

I am very proud of that work and that progress we have made in this House. The gentleman from Minnesota acted as if this bill, the Save Local Business Act, is something to benefit big companies, but let me tell you who I, and virtually all of us who are supporting this bill, have heard from: small businesses in our districts that are begging us to pass this bill.

I have had dozens of meetings in my own district. I know of hundreds of meetings that have been held across the country between Members of this House on both sides of the aisle and small businesses in their districts that say: Please pass this bill.

This isn't for the big businesses in America. This is for the small, Main Street businesses in our communities and for the people who work there.

At this time, Mr. Speaker, I yield 2 minutes to the gentleman from South Carolina (Mr. NORMAN), one of the newest Members of the House who has already made a distinguished mark here.

Mr. NORMAN. Mr. Speaker, I rise today in adamant support of the rule and, in particular, of H.R. 3441, the Save Local Business Act.

Let me say for my good friend from Massachusetts, you know, the amendments that he is referring to that have been rejected, they have been rejected because they are against small business and they are for Big Government, which American voters have rejected and will continue to reject.

It may be cliché to say that small and local businesses are the backbone of our economy, but, at the end of the day, there is no denying that statement. Small businesses truly are the engine that keep our economy moving, and when they suffer, our whole economy suffers.

Just take the last 8 years with the minimal growth that we have had. Since 2015, when the National Labor Relations Board adopted an expanded definition of the joint employers standard, upending decades of precedent and redefining who an employer is, there has been much confusion and ambiguity. For example, since then, there have been over 65,000 letters sent to Congress expressing confusion and asking for clarity in the aftermath of this rule.

This is unacceptable. Locally owned franchises are America's unseen small businesses, and in my district alone, the Fifth District of South Carolina, there are roughly 2,000 establishments that provide over 15,000 jobs with an economic output of over \$1 billion.

Small business development, economic growth, and entrepreneurs will continue to be hurt by the National Labor Relations Board's excessive broad definition of the term "joint employer." Until Congress finds a concrete solution with this piece of legislation, it will continue to do so.

This bill, Mr. Speaker, provides clarity for small and local businesses as to what it means to be a joint employer, restoring necessary clarity for employers and employees alike.

I strongly encourage all of my colleagues on both sides of the aisle to support this bipartisan bill helping small businesses all across the Nation, and I congratulate the Congressman from Alabama for proposing this bill.

Mr. MCGOVERN. Mr. Speaker, I yield to the gentleman from Minnesota (Mr. ELLISON) for a unanimous consent request.

Mr. ELLISON. Mr. Speaker, I include in the RECORD this letter from United Steelworkers urging a "no" vote on the joint employer bill.

UNITED STEELWORKERS,  
Pittsburgh, PA, November 1, 2017.

*House of Representatives,  
Washington, DC.*

DEAR REPRESENTATIVE: On behalf of the 850,000 members of the United Steelworkers (USW), I strongly urge you to oppose H.R. 3441, the ludicrously named "Save Local Business Act". The bill has virtually nothing to do with small businesses but will greatly restrict the definition of employer under the Fair Labor Standards Act (FLSA).

Targeting a National Labor Relations Board decision, Browning-Ferris Industries, H.R. 3441 is not only drafted to repeal a decision where the employer tried to avoid collective bargaining responsibilities through subcontracting, but radically changes the Fair Labor Standards Act. Currently, under the FLSA, employers cannot hide behind labor contractors or franchisees when they set conditions of employment. H.R. 3441 strips nearly a century of workforce protections to give large employers almost unfettered ability to hide from long established employer responsibilities.

The rise in temporary or precarious work in the United States is fast becoming an unfortunate norm in the economy. A recent study on the rise of temporary employment found the proportion of American workers engaged in "alternative work" jumped from 10.7% to 15.8% in the last decade. When in the last decade 94% of net job growth is in the alternative work category, workers continuously find themselves unable to seek remedy for their grievances or an ability to collectively hold their ultimate employer accountable. H.R. 3441 will accelerate the growth of job-instability as employers will be able to manipulate the system to avoid collective bargaining by hiring temporary employees or contractor employees.

Congress' responsibility to American workers in this time of rising income inequality and precarious work must be to improve access to collective bargaining and stop employer circumvention of U.S. labor laws, not to weaken them. H.R. 3441 strips workers of another tool to hold their employers accountable. A vote for this legislation is a vote against working people and the right to democratic representation in the workplace. I urge you to vote no on H.R. 3441.

Sincerely,

LEO W. GERARD,  
*International President.*

Mr. MCGOVERN. Mr. Speaker, I include in the RECORD a letter from the Signatory Wall and Ceiling Contractors Alliance, which says that this legislation would not benefit small businesses that create good jobs. It actually would place such employers at a permanent competitive disadvantage to unscrupu-

lous companies that seek to thrive solely at the expense of the workers and taxpayer-funded social safety net programs.

SIGNATORY WALL AND  
CEILING CONTRACTORS ALLIANCE,  
*Saint Paul, MN, October 5, 2017.*

Hon. PAUL RYAN,  
*Speaker of the House, House of Representatives,  
Washington, DC.*

Hon. NANCY PELOSI,  
*Minority Leader, House of Representatives,  
Washington, DC.*

DEAR MR. SPEAKER AND LEADER PELOSI: I am writing on behalf of the Signatory Wall and Ceiling Contractors Alliance (SWACCA) to express our strong opposition to H.R. 3441, the "Save Local Business Act." This legislation will not benefit honest small businesses that create good jobs with family-sustaining wages and benefits. It will actually place such employers at a permanent competitive disadvantage to unscrupulous companies that seek to thrive solely at the expense of their workers and taxpayer-funded social safety-net programs.

SWACCA is a national alliance of wall and ceiling contractors committed to working in partnership with our workers and our customers to provide the highest-quality, most efficient construction services. Through the superior training, skill, and efficiency of our workers SWACCA contractors are able to provide both cost-effective construction services and middle class jobs with health and retirement benefits. Our organization prides itself on representing companies that accept responsibility for paying fair wages, abiding by health and safety standards, workers compensation laws, and unemployment insurance requirements.

Unfortunately, however, we increasingly find ourselves bidding against companies that seek to compete solely on the basis of labor costs. They do so by relieving themselves of the traditional obligations associated with being an employer. The news is littered with examples of contractors who have sought to reduce costs by willfully violating the laws governing minimum wage, overtime, workers compensation unemployment insurance, and workplace safety protections. The key to this disturbing business model is a cadre of labor brokers who claim to provide a company with an entire workforce that follows them to job after job. It is a workforce that the actual wall or ceiling contractor controls as a practical matter, but for which it takes no legal responsibility. In this model workers receive no benefits, are rarely covered by workers compensation or unemployment insurance, and are frequently not paid in compliance with federal and state wage laws. The joint employment doctrine is an important means for forcing these unscrupulous contractors to compete on a level playing field and to be held accountable for the unlawful treatment of the workers they utilize.

As an association representing large, medium, and small businesses, we oppose H.R. 3441 because it proposes a radical, unprecedented re-definition of joint employment under both the FLSA and the NLRA that goes far beyond reversing the standard articulated by the NLRB in Browning-Ferris or retuning to any concept of joint employment that has ever existed under the FLSA since the Act's passage. H.R. 3441's radical and unprecedented redefinition of joint employment would proliferate the use of fly-by-night labor brokers by ensuring that no contractor using a workforce provided by a labor broker would ever be deemed a joint employer. This is because the bill precludes a finding of joint employment unless a company controls each "of the essential terms

and conditions of employment (including hiring employees, discharging employee, determining individual employee rates of pay and benefits, day-to-day supervision of employees, assigning individual work schedules, positions and tasks, and administering employee discipline)". H.R. 3441 goes further by expressly countenancing a company using labor brokers retaining control of the essential aspects of the workers' employment in a "limited and routine manner" without facing any risk of being a joint employer.

Simply put, H.R. 3441 would create a standard that would surely accelerate a race to the bottom in the construction industry and many other sectors of the economy. It would further tilt the field of competition against honest, ethical businesses. Any concerns about the prior administration's recently rescinded interpretative guidance on joint employment under the FLSA or the NLRB's joint employment doctrine enunciated in *Browning-Ferris* can be addressed in a far more responsible manner. Make no mistake, H.R. 3441 does not return the law to any prior precedents or standards. It creates a radical, new standard. This standard will help unethical employers get rich not be creating more value, but instead by ensuring their ability to treat American workers as a permanent pool of low-wage, subcontracted labor that has neither benefits nor any meaningful recourse against them under our nation's labor and employment laws.

On behalf of the membership of SWACCA, thank you in advance for your attention to our concerns about this legislation. Please do not hesitate to contact me if you have any questions or require additional information.

Sincerely,

TIMOTHY J. WIES,  
President.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to go back to this point I have been making about how this is now officially the most closed Congress in history, and I think people need to keep that in mind before they vote for this rule.

But the gentleman from Alabama, again—I guess in this age of Trump, I mean, you can twist things all kinds of different ways, you know—bragged about all this great bipartisanship here. In that number that he was referring to, a number of bills that were supported in a bipartisan way, a big chunk of them are things like naming post offices, suspension bills that are not controversial, Hats Off to Teachers Day, those types of bills.

But on major legislation, whether it is healthcare or whether it is this crummy tax bill that they are going to be bringing up, this place is polarized because they block out any competing ideas.

Let me again reiterate for my colleagues: the Rules Committee has blocked more than 1,300 amendments this year. That is just this year alone.

Now, I already mentioned amendments on the AUMF, climate change, Afghanistan, and more. I think those are important subjects. But the Members offering these amendments, I think, no matter what you believe about these amendments, deserve the right to be heard by the whole House and to receive an up-or-down vote.

But here are a few more examples of the germane amendments that my

friends on the Republican side on the Rules Committee blocked under the closed and structured rules. They blocked an amendment to prohibit the repeal of DACA.

You know, I mean, 800,000 people's lives now are in the balance because of Donald Trump rescinding the protection for these DREAMers, and he said: Congress, you do it. You fix it.

Well, we tried to bring an amendment to the floor to have a debate and fix it, and if my Republican friends don't want to vote for it, they can vote "no." But they blocked it. They blocked an amendment to bar funds from being spent on this stupid, idiotic wall that the President seems enamored with along our border. They blocked an amendment to increase funding to fight rural domestic violence and child abuse. They blocked several amendments to ensure the Trump family doesn't profit off the Presidency, and we all know that they are, but we can't even have that debate.

They blocked an amendment to protect asylum seekers and human trafficking victims, and they blocked an amendment to ensure victims of incest can have access to abortion care. I can go on and on and on. I mean, they blocked Congressman GROTHMAN's budget amendment twice. He is a Republican. It was germane. He even testified before the Rules Committee, but you blocked it.

Last week, you blocked Representative JIMMY DUNCAN's amendment to allow doctors to practice medicine out of State on a volunteer basis. Germane. It may be a good idea. It deserves to be debated. You blocked it.

Is that a poison pill? Is that what the gentleman was referring to? You know, process matters, and it matters for this reason, because when you have a lousy process, you end up with a lousy product.

I know it is not sexy to talk about process, you know, but it is important. It is important that we do our jobs, we debate these issues, and that we listen to Democrats and Republicans, you know, come before us with ideas: some we may agree with, some we may not, but let's have that debate. What is wrong with that? Why is that such a radical idea in this place? To get up and say I am proud of this; I am proud that we are now the most closed Congress in the history of our country? That is something to be proud of?

I think that is something to be ashamed of. I think it diminishes this House of Representatives, and it diminishes every single member of this House, Democrats and Republicans alike.

This is supposed to be a deliberative body. Let's deliberate. Let's not negotiate things in the back room and then rush it to the floor and demand an up-or-down vote. You know, you don't have a monopoly on good ideas, and there are people in your own party who have some good ideas, too, and I think

we have good ideas as well. And if you want bipartisanship, true bipartisanship, and you want to end the polarization, open the process a little bit. That would be helpful.

Mr. Speaker, I reserve the balance of my time.

Mr. BYRNE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am very pleased and very proud of the bipartisanship that we have had in this House this year to pass all these bills. Let me note just two very substantive bills, one last week and one today.

Last week, we passed a bill that got rid of this IPAB group that is going to take money, is proposed to take money out of Medicare. It was cosponsored by 45 Democrats, and dozens and dozens of Democrats voted for it on the floor last week. Today, this Save Local Business Act is bipartisan in its sponsorship and, I predict, on the vote of the floor today.

Now, how important is that? Let me read to you just a few of the organizations that support this bill: the American Hotel and Lodging Association, the Asian American Hotel Owners Association, Associated Builders and Contractors, Associated General Contractors, the U.S. Chamber of Commerce, the Coalition for a Democratic Workplace, the Coalition to Save Local Businesses, The Latino Coalition, National Association of Home Builders, National Association of Manufacturers, National Council of Chain Restaurants, National Retail Federation, U.S. Travel Association, the Capital Research Center, Generation Opportunity, Heritage Action for America, Hispanic Leadership Fund, the Independent Women's Institute for Liberty, the James Madison Institute, the National Taxpayers Union, the Tea Party Nation, Food Marketing Institute, National Franchise Association, National Apartment Association, Retail Industry Leaders Association, and the Workplace Fairness Institute, and I could have dozens and dozens more.

The truth of the matter is, these are very important bills that we bring before this floor, and most of them are bipartisan. The ones we have today are bipartisan bills.

Mr. Speaker, I would say to you that this House has a lot to be proud of, of the great work we have done this year, and I am most proud of the fact that, in most of those cases, we have been working together.

Mr. Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman is right, we can work together and come together in a bipartisan way to pass a post office bill, to name a post office after somebody, but my friends didn't think it was important to come together and work with us on improving the Affordable Care Act, totally cut out of the process.

I am willing to bet that when the tax bill comes up, the tax bill that is going



to give wealthy people a big tax break and raise taxes on a lot of middle-income families, that will be a very closed process as well. So yeah, you know, Hats Off to Teachers Day, naming post offices, stuff that, I mean, Western civilization, as we know it, doesn't hinge upon, yeah, there is lot of bipartisanship here.

We had a couple of bills yesterday that passed unanimously. I mean, we had votes on them. They were non-controversial. But when it comes to anything really meaningful, there is no bipartisanship, and there is no openness here.

Again, let me repeat, so my colleagues understand this. This is the most closed session of Congress ever in history, and the year is not even over yet. Today, we are considering the 49th closed rule of the 115th Congress, officially making it the most closed session of Congress in history. More than half of the rules the Republicans have reported out of the Rules Committee have not allowed any amendments. They have blocked over 1,300 amendments.

Speaker RYAN now is the only speaker who has not allowed an open rule. Speakers Boehner, PELOSI, Hastert, and Gingrich all allowed some open rules. This is the first time we never had one.

Mr. Speaker, again, I would say to my colleagues, process matters, and this is really a sad day for this House, for this institution, and I hope my Republican friends think about it a little bit because you are doing great damage to this institution, and that makes me very sad.

Mr. Speaker, I reserve the balance of my time.

Mr. BYRNE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, when we adopt this rule later on this afternoon, when we adopt my bill, let me tell you who is going to be happy. Tens and tens of thousands of small businesses and hundreds of thousands of their employees across America, that is who is going to be happy.

And you know what, we are not here to make ourselves happy. We are here to make the people who sent us here and expect us to do their business, we are here to make them happy, and we are going to make them happy today, as we have done over and over again this year, by passing legislation that works for them, not for us.

So there may be some unhappiness in the room because we haven't made every little amendment in order for this floor, but we have made the amendments that matter to the American people, and, more importantly, we passed legislation that matters to the American people, and I am very proud of that, and the American people, indeed, are happy.

Mr. Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just want to remind my colleagues as well that the bill that

the gentleman from Alabama is talking about, his bill, when it—in the Rules Committee last night, the Rules Committee thought it was appropriate to block three germane amendments from the ranking member of the Education and the Workforce Committee. I mean, that is the process that we are dealing with here.

The ranking member of that committee does not have the opportunity to bring his ideas to the floor and debate them and get a vote up or down on it. That is not right, and the Rules Committee, unfortunately, is becoming a place where democracy goes to die, where every good idea is routinely shot down, and it has to stop.

Mr. Speaker, I am going to ask my colleagues to defeat the previous question. And I want to say to my colleagues that, a month ago, I stood at this very podium, following our Nation's deadliest mass shooting in Las Vegas, asking my colleagues to defeat the previous question so that we can begin to study gun violence.

□ 1315

Now I stand here again, after yet another unthinkable tragedy, begging my colleagues to allow us to take this small first step following Sunday's deadly mass shooting at First Baptist Church in Texas.

Twenty-six people in that church lost their lives to gun violence, and that is from one single shooting. On an average day, 93 Americans are killed with guns.

I would like to ask my colleagues again: What will it take?

If the deaths of those children in Sandy Hook Elementary School weren't enough for Congress to take action, if the 49 lives lost in Orlando weren't enough, if the 58 lives lost in Las Vegas weren't enough, and if the 26 lives lost in Texas on Sunday aren't enough, then nothing may ever be enough for Congress to have the courage to do the right thing.

But I am hoping that is not true. Today we can decide to take the first step in fighting gun violence with one vote. If we defeat the previous question, I will offer an amendment to the rule to bring up H. Res. 367, which would establish the Select Committee on Gun Violence Prevention.

It is time that we start having serious discussions about this problem. Moments of silence and calls for prayer are not enough. We have been doing that. It is time for us to get serious.

Mr. Speaker, I ask unanimous consent to insert the text of my amendment in the RECORD, along with extraneous material, immediately prior to the vote on the previous question.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. MCGOVERN. Mr. Speaker, I reserve the balance of my time.

Mr. BYRNE. Mr. Speaker, I have no further speakers, and I reserve the balance of my time.

Mr. MCGOVERN. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore. The gentleman from Massachusetts has 7 minutes remaining.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are bringing to the floor two bills today that I think are bad bills. But, nonetheless, they represent the thinking of the Republicans who are in charge of this Congress.

What is particularly distressing to me is that, on one of those measures, it is being brought to the floor under a completely closed process.

As I mentioned, last night, the ranking member of the Education and the Workforce Committee came before the Rules Committee to offer three germane amendments, and the Rules Committee said: No, you don't have the right to have a debate on your ideas, even though they are perfectly germane, on the House floor.

I think that is lousy. As a result, we come today and we make history. This is now officially the most closed Congress ever in the history of our country. My friends on the other side of the aisle are getting up and talking about how proud they are. They talk about bipartisanship. What they don't tell you is that most of the bipartisanship are on things that really don't mean a lot: naming of post offices and bills that pass by 435-0. On big things, on important issues, they block us. I mentioned some of the things they blocked.

I know a lot of my colleagues on both sides of the aisle care deeply about the DREAMers, since Donald Trump decided to throw their fates into the balance. They want to do something to help these young people, many of whom came when they were 1 year old or 2 years old and know no other country as their home but this country. We tried to fix that legislatively, as the President said he wanted us to do, and the Republican majority blocked us. They blocked us.

We tried to offer an amendment again to say let's not invest a gazillion dollars on a border wall. Let's invest in our people. Let's build up our infrastructure. Let's construct the finest railway system in the United States—in the world—over the next decade. They blocked us.

We had an amendment to increase funding to fight rural domestic violence and child abuse, and they blocked us.

We had an amendment to say we need to ensure that this culture of corruption that we see in the White House doesn't grow any bigger, that the Trump family doesn't benefit from the taxpayers, they don't benefit financially from the taxpayers, and we were blocked on that as well.

Then we have been blocked on amendments to debate these wars that have gone on for years and years. The war in Afghanistan is endless. It is the longest war in American history. We can't have a debate on the floor. We are

told that it is not appropriate and that it is not the right time.

The bottom line is, what my friends on the other side of the aisle are doing is they are running this place in a very authoritarian way, basically saying: It is our way, and that is it. It is our way or the highway, and you don't matter.

Well, we have had enough. We have had enough of being shut out, and we are not going to shut up. We are not going to sit by and allow this pattern of closed rules and closed processes to continue without a protest. This is a serious matter.

For the Speaker of the House in his press conference today to get up and say, "Oh, we have a very open house," I mean, where is he living?

That does not reflect the reality. Maybe Donald Trump can say those kind of things that don't reflect reality, but the Speaker of the House ought to know that today, under his leadership, this has become the most closed House ever, and it diminishes this institution and it diminishes every single Member of this institution.

So vote "no" on this rule. I urge my Republican friends, who care about process, who want this place to be more deliberative, to vote "no." Send a message to your leadership that you have had enough.

If you want more bipartisan legislation, if you want a less polarized Congress, then open the process up a little bit. I have news for you, if you do, maybe the popularity of Congress will go up a little bit. I think we are at, like, 12 or 13 percent now. Maybe that might get you up to 15 or 16 percent. But it is the right thing to do.

This is not the way we are supposed to run a legislative body. When you do it this way, you end up with lousy legislation. Your healthcare bill was a disaster. It reflected no input from anybody. Thank God the Senate said no to it. We see the same thing going on with the tax bill.

Mr. Speaker, I urge my colleagues to vote "no" on the previous question so maybe we can bring up a little bit of a debate on the need for a select committee to study gun violence. But, please, vote "no" on this. Please send a message to the Republican leadership that enough is enough and we are tired of these closed rules.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The Chair would again ask Members to direct remarks to the Chair.

Mr. BYRNE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this has been a very open process. At the beginning, you recognized me for an hour and I gave, as is customary, half of my time to the other side so that they could present their side.

In our committee, the Rules Committee, we let anyone who wants to come—any Member who wants to come and basically say whatever they want to say for as long as they want to say

it. We don't really have any rules in the Rules Committee because we want to have it so open, we want to give everybody such an opportunity, that we let everybody come and say whatever they want. Then we take it all into account and we make some amendments in order and some not.

Because we have done our job so well this year, we have had so many bills in the House—and the House has passed them all—that this House is just about a record-breaking House in terms of what we are passing. Yes, our friends over in the Senate haven't passed a lot of them. I don't think the American people like that. I think the American people want the Senate to get to work like the House has been at work.

This is important work, and we are here to do it and not play games. The bills that are under this rule are very important bills.

I have heard a lot about climate change. The gentleman may suggest that people on our side of the aisle don't understand science. I am not a scientist, but I do understand climate change. I do understand from the people who are worried about it, and a lot of people are legitimately worried about it. The only thing you can do about that is to have alternative sources of energy.

Hydroenergy is one of those sources. You don't release any carbon molecules in the air when you generate electricity using water. So one of the bills addresses that.

The other bill—my bill—the Save the Local Business Act, is a very important bill, a bipartisan bill. There are bipartisan sponsors on this bill. As I said earlier, there are tens of thousands of businesses around America and hundreds of thousands of employees of those businesses that are aching for us to pass this bill.

So far from being small things that don't matter—by the way, saying nice things about teachers isn't a small thing. I think it is a big thing. These are important pieces of legislation, and I am proud of the work that this House has done to make sure that we consider them and pass them.

Mr. Speaker, I again urge my colleagues to support House Resolution 607 and the underlying bills.

The material previously referred to by Mr. MCGOVERN is as follows:

AN AMENDMENT TO H. RES. 607 OFFERED BY  
MR. MCGOVERN:

At the end of the resolution, add the following new sections:

SEC. 3. Immediately upon adoption of this resolution the Speaker shall, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the resolution (H. Res. 367) to establish the Select Committee on Gun Violence Prevention. The first reading of the resolution shall be dispensed with. All points of order against consideration of the resolution are waived. General debate shall be confined to the resolution and shall not exceed one hour equally divided and controlled by the chair and ranking minority member of the Committee on Rules. After general debate

the resolution shall be considered for amendment under the five-minute rule. All points of order against provisions in the resolution are waived. At the conclusion of consideration of the resolution for amendment the Committee shall rise and report the resolution to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the resolution and amendments thereto to final passage without intervening motion or demand for division of the question except one motion to recommit with or without instructions. If the Committee of the Whole rises and reports that it has come to no resolution on the resolution, then on the next legislative day the House shall, immediately after the third daily order of business under clause 1 of rule XIV, resolve into the Committee of the Whole for further consideration of the resolution.

SEC. 4. Clause 1(c) of rule XIX shall not apply to the consideration of House Resolution 367.

#### THE VOTE ON THE PREVIOUS QUESTION: WHAT IT REALLY MEANS

This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Republican majority agenda and a vote to allow the Democratic minority to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon's Precedents of the House of Representatives (VI, 308-311), describes the vote on the previous question on the rule as "a motion to direct or control the consideration of the subject before the House being made by the Member in charge." To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker's ruling of January 13, 1920, to the effect that "the refusal of the House to sustain the demand for the previous question passes the control of the resolution to the opposition" in order to offer an amendment. On March 15, 1909, a member of the majority party offered a rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry, asking who was entitled to recognition. Speaker Joseph G. Cannon (R-Illinois) said: "The previous question having been refused, the gentleman from New York, Mr. Fitzgerald, who had asked the gentleman to yield to him for an amendment, is entitled to the first recognition."

The Republican majority may say "the vote on the previous question is simply a vote on whether to proceed to an immediate vote on adopting the resolution . . . [and] has no substantive legislative or policy implications whatsoever." But that is not what they have always said. Listen to the Republican Leadership Manual on the Legislative Process in the United States House of Representatives, (6th edition, page 135). Here's how the Republicans describe the previous question vote in their own manual: "Although it is generally not possible to amend the rule because the majority Member controlling the time will not yield for the purpose of offering an amendment, the same result may be achieved by voting down the previous question on the rule. . . . When the motion for the previous question is defeated, control of the time passes to the Member who led the opposition to ordering the previous question. That Member, because he then controls the time, may offer an amendment to the rule, or yield for the purpose of amendment."

In Deschler's Procedure in the U.S. House of Representatives, the subchapter titled



“Amending Special Rules” states: “a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate.” (Chapter 21, section 21.2) Section 21.3 continues: “Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon.”

Clearly, the vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools for those who oppose the Republican majority’s agenda and allows those with alternative views the opportunity to offer an alternative plan.

Mr. BYRNE. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MCGOVERN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 and clause 9 of rule XX, this 15-minute vote on ordering the previous question will be followed by 5-minute votes on:

Adopting the resolution, if ordered; and

Agreeing to the Speaker’s approval of the Journal.

The vote was taken by electronic device, and there were—yeas 233, nays 182, not voting 17, as follows:

[Roll No. 610]

YEAS—233

Abraham	Comstock	Graves (LA)
Aderholt	Conaway	Graves (MO)
Allen	Cook	Griffith
Amash	Costello (PA)	Grothman
Amodei	Cramer	Guthrie
Arrington	Crawford	Handel
Babin	Culberson	Harper
Bacon	Curbelo (FL)	Harris
Banks (IN)	Davidson	Hartzler
Barletta	Davis, Rodney	Hensarling
Barr	Denham	Herrera Beutler
Barton	Dent	Hice, Jody B.
Bergman	DeSantis	Higgins (LA)
Biggs	Diaz-Balart	Hill
Bilirakis	Donovan	Holding
Bishop (MI)	Duffy	Hollingsworth
Bishop (UT)	Duncan (SC)	Huizenga
Black	Duncan (TN)	Hultgren
Blackburn	Dunn	Hunter
Blum	Emmer	Hurd
Bost	Estes (KS)	Issa
Brady (TX)	Farenthold	Jenkins (KS)
Brat	Faso	Jenkins (WV)
Brooks (AL)	Ferguson	Johnson (LA)
Brooks (IN)	Fitzpatrick	Johnson (OH)
Buchanan	Fleischmann	Johnson, Sam
Buck	Flores	Jordan
Bucshon	Fortenberry	Joyce (OH)
Budd	Fox	Katko
Burgess	Franks (AZ)	Kelly (MS)
Byrne	Frelinghuysen	Kelly (PA)
Calvert	Gaetz	King (IA)
Carter (GA)	Gallagher	King (NY)
Carter (TX)	Gianforte	Kinzinger
Chabot	Gibbs	Knight
Cheney	Gohmert	Kustoff (TN)
Coffman	Goodlatte	Labrador
Cole	Gosar	LaHood
Collins (GA)	Gowdy	LaMalfa
Collins (NY)	Granger	Lamborn
Comer	Graves (GA)	Lance

Latta	Perry	Smith (NJ)
Lewis (MN)	Peterson	Smith (TX)
LoBiondo	Pittenger	Smucker
Long	Poe (TX)	Stefanik
Loudermilk	Poliquin	Stewart
Love	Posey	Stivers
Lucas	Ratcliffe	Taylor
Luetkemeyer	Reed	Tenney
MacArthur	Reichert	Thompson (PA)
Marchant	Renacci	Thornberry
Marino	Roby	Tiberi
Marshall	Roe (TN)	Tipton
Massie	Rogers (AL)	Trott
Mast	Rogers (KY)	Turner
McCarthy	Rohrabacher	Upton
McCaul	Rokita	Valadao
McClintock	Rooney, Francis	Wagner
McHenry	Rooney, Thomas J.	Walberg
McKinley	Ros-Lehtinen	Walden
McMorris	Roskam	Walker
Rodgers	Ross	Walorski
McSally	Rothfus	Walters, Mimi
Meadows	Rouzer	Weber (TX)
Meehan	Royce (CA)	Webster (FL)
Messer	Russell	Wenstrup
Mitchell	Rutherford	Westerman
Moolenaar	Sanford	Williams
Mooney (WV)	Scalise	Wilson (SC)
Mullin	Schweikert	Wittman
Newhouse	Scott, Austin	Womack
Noem	Sensenbrenner	Woodall
Norman	Sessions	Yoder
Nunes	Shimkus	Yoho
Olson	Shuster	Young (AK)
Palazzo	Simpson	Young (IA)
Palmer	Smith (MO)	Zeldin
Paulsen	Smith (NE)	
Pearce		

NAYS—182

Adams	Esty (CT)	McNerney
Aguilar	Evans	Meeks
Barragán	Foster	Meng
Bass	Frankel (FL)	Moore
Beatty	Fudge	Moulton
Bera	Gabbard	Murphy (FL)
Beyer	Gallago	Nadler
Bishop (GA)	Garamendi	Napolitano
Blumenauer	Gomez	Neal
Blunt Rochester	Gonzalez (TX)	Nolan
Bonamici	Gottheimer	Norcross
Boyle, Brendan F.	Green, Al	O’Halloran
Brown (MD)	Green, Gene	O’Rourke
Brownley (CA)	Grijalva	Pallone
Brownley (CA)	Gutiérrez	Panetta
Bustos	Hanabusa	Pascarell
Butterfield	Heck	Payne
Capuano	Higgins (NY)	Pelosi
Carbajal	Himes	Perlmutter
Cárdenas	Jackson Lee	Peters
Carlson (IN)	Jayapal	Pingree
Cartwright	Jeffries	Price (NC)
Castor (FL)	Jones	Quigley
Castro (TX)	Kaptur	Raskin
Chu, Judy	Keating	Rice (NY)
Cicilline	Kelly (IL)	Richmond
Clark (MA)	Kennedy	Rosen
Clarke (NY)	Khanna	Ruiz
Clay	Kihuen	Ruppersberger
Cleaver	Kildee	Rush
Clyburn	Kilmer	Ryan (OH)
Cohen	Kind	Sánchez
Connolly	Krishnamoorthi	Sarbanes
Conyers	Kuster (NH)	Schakowsky
Cooper	Langevin	Schiff
Correa	Larsen (WA)	Schneider
Costa	Larson (CT)	Schrader
Courtney	Lawrence	Scott (VA)
Crist	Lawson (FL)	Scott, David
Crowley	Lee	Serrano
Cuellar	Levin	Sewell (AL)
Davis (CA)	Lewis (GA)	Shea-Porter
Davis, Danny	Lieu, Ted	Sherman
DeFazio	Lipinski	Sinema
DeGette	Loeb	Sires
Delaney	Lofgren	Slaughter
DeLauro	Lowenthal	Smith (WA)
DeBene	Lowe	Soto
Demings	Lujan Grisham, M.	Speier
DeSaulnier	Lujan, Ben Ray	Suozzi
Deutsch	Lynch	Swalwell (CA)
Dingell	Maloney,	Takano
Doggett	Carolyn B.	Thompson (CA)
Doyle, Michael F.	Carlyon, Sean	Titus
Ellison	Matsui	Tonko
Engel	McCollum	Torres
Eshoo	McEachin	Tsongas
Espallat	McGovern	Vargas
		Veasey

Vela	Wasserman	Welch
Velázquez	Schultz	Yarmuth
Visclosky	Waters, Maxine	
Walz	Watson Coleman	

NOT VOTING—17

Brady (PA)	Hoyer	Polis
Bridenstine	Hudson	Rice (SC)
Cummings	Huffman	Roybal-Allard
DesJarlais	Johnson (GA)	Thompson (MS)
Garrett	Johnson, E. B.	Wilson (FL)
Hastings	Pocan	

□ 1348

Messrs. HIMES, WALZ, and JONES changed their vote from “yea” to “nay.”

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. JODY B. HICE of Georgia). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. MCGOVERN. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 233, noes 182, not voting 17, as follows:

[Roll No. 611]

AYES—233

Abraham	Diaz-Balart	Jones
Aderholt	Donovan	Jordan
Allen	Duffy	Joyce (OH)
Amash	Duncan (SC)	Katko
Amodei	Duncan (TN)	Kelly (MS)
Arrington	Dunn	Kelly (PA)
Babin	Emmer	King (IA)
Bacon	Estes (KS)	King (NY)
Banks (IN)	Farenthold	Kinzinger
Barletta	Faso	Knight
Barr	Ferguson	Kustoff (TN)
Barton	Fitzpatrick	Labrador
Bergman	Fleischmann	LaHood
Biggs	Flores	LaMalfa
Bilirakis	Fortenberry	Lamborn
Bishop (MI)	Fox	Lance
Bishop (UT)	Franks (AZ)	Latta
Black	Frelinghuysen	Lewis (MN)
Blackburn	Gaetz	LoBiondo
Blum	Gallagher	Long
Bost	Gianforte	Loudermilk
Brady (TX)	Gibbs	Love
Brat	Gohmert	Lucas
Brooks (AL)	Goodlatte	Luetkemeyer
Brooks (IN)	Gosar	MacArthur
Buchanan	Gowdy	Marchant
Buck	Granger	Marino
Bucshon	Graves (GA)	Marshall
Budd	Graves (LA)	Massie
Burgess	Graves (MO)	Mast
Byrne	Griffith	McCarthy
Calvert	Grothman	McCaul
Carter (GA)	Guthrie	McClintock
Carter (TX)	Handel	McHenry
Chabot	Harper	McKinley
Cheney	Harris	McMorris
Coffman	Hartzler	Rodgers
Cole	Hensarling	McSally
Collins (GA)	Herrera Beutler	Meadows
Collins (NY)	Hice, Jody B.	Meehan
Comer	Higgins (LA)	Messer
Comstock	Hill	Mitchell
Conaway	Holding	Moolenaar
Cook	Hollingsworth	Mooney (WV)
Costello (PA)	Huizenga	Mullin
Cramer	Hultgren	Newhouse
Crawford	Hunter	Noem
Culberson	Hurd	Norman
Curbelo (FL)	Issa	Nunes
Davidson	Jenkins (KS)	Olson
Davis, Rodney	Jenkins (WV)	Palazzo
Dent	Johnson (LA)	Palmer
DeSantis	Johnson (OH)	Paulsen
	Johnson, Sam	Pearce

Perry  
Pittenger  
Poe (TX)  
Poliquin  
Posey  
Ratcliffe  
Reed  
Reichert  
Renacci  
Rice (SC)  
Roby  
Roe (TN)  
Rogers (AL)  
Rogers (KY)  
Rohrabacher  
Rokita  
Rooney, Francis  
Rooney, Thomas J.  
Ros-Lehtinen  
Roskam  
Ross  
Rothfus  
Rouzer  
Royce (CA)

## NOES—182

Adams  
Aguilar  
Barragán  
Bass  
Beatty  
Bera  
Beyer  
Bishop (GA)  
Blumenauer  
Blunt Rochester  
Bonamici  
Boyle, Brendan F.  
Brown (MD)  
Brownley (CA)  
Bustos  
Butterfield  
Capuano  
Carbajal  
Cárdenas  
Carson (IN)  
Cartwright  
Castor (FL)  
Castro (TX)  
Chu, Judy  
Cicilline  
Clark (MA)  
Clarke (NY)  
Clay  
Cleaver  
Clyburn  
Cohen  
Connolly  
Conyers  
Cooper  
Correa  
Costa  
Courtney  
Crist  
Crowley  
Cuellar  
Davis (CA)  
Davis, Danny  
DeFazio  
DeGette  
Delaney  
DeLauro  
DelBene  
Demings  
DeSaulnier  
Deutsch  
Dingell  
Doggett  
Doyle, Michael F.  
Ellison  
Engel  
Eshoo  
Españat  
Esty (CT)  
Evans  
Foster  
Frankel (FL)

## NOT VOTING—17

Brady (PA)  
Bridenstine  
Cummings  
DesJarlais  
Garrett  
Hastings

Hoyer  
Hudson  
Huffman  
Johnson (GA)  
Johnson, E. B.  
Pocan

Turner  
Upton  
Valadao  
Wagner  
Walberg  
Walden  
Walker  
Walorski  
Walters, Mimi  
Weber (TX)  
Webster (FL)  
Wenstrup  
Westerman  
Williams  
Wilson (SC)  
Wittman  
Womack  
Woodall  
Yoder  
Yoho  
Young (AK)  
Young (IA)  
Zeldin

Nolan  
Norcross  
O'Halloran  
O'Rourke  
Pallone  
Panetta  
Pascarell  
Payne  
Pelosi  
Perlmutter  
Peters  
Peterson  
Pingree  
Price (NC)  
Quigley  
Raskin  
Rice (NY)  
Richmond  
Rosen  
Ruiz  
Ruppersberger  
Rush  
Ryan (OH)  
Sánchez  
Sarbanes  
Schakowsky  
Schiff  
Schneider  
Schrader  
Scott (VA)  
Scott, David  
Serrano  
Sewell (AL)  
Shea-Porter  
Sherman  
Budd  
Bustos  
Butterfield  
Byrne  
Calvert  
Carter (TX)  
Cartwright  
Castro (TX)  
Chabot  
Chu, Judy  
Cicilline  
Clay  
Cleaver  
Cohen  
Cole  
Collins (NY)  
Comer  
Comstock  
Cook  
Cooper  
Cramer  
Crawford  
Crist  
Culberson  
Davidson  
Davis (CA)  
Davis, Danny  
DeGette  
DeLauro  
DelBene  
Demings  
Torres  
Tsongas  
Vargas  
Veasey  
Velázquez  
Visclosky  
Walz  
Wasserman  
Schultz  
Waters, Maxine  
Watson Coleman  
Welch  
Yarmuth

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE  
The SPEAKER pro tempore (during the vote). There are 2 minutes remaining.

□ 1357

So the resolution was agreed to.  
The result of the vote was announced as above recorded.  
A motion to reconsider was laid on the table.

## THE JOURNAL

The SPEAKER pro tempore. The unfinished business is the question on agreeing to the Speaker's approval of the Journal, on which the yeas and nays were ordered.

The question is on the Speaker's approval of the Journal.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 225, nays 184, answered “present” 3, not voting 20, as follows:

[Roll No. 612]

## YEAS—225

Abraham  
Adams  
Aderholt  
Allen  
Amodei  
Arrington  
Bacon  
Banks (IN)  
Barietta  
Barr  
Barton  
Beatty  
Bilirakis  
Bishop (GA)  
Bishop (UT)  
Black  
Blackburn  
Blumenauer  
Bonamici  
Brady (TX)  
Brat  
Brooks (AL)  
Brooks (IN)  
Brown (MD)  
Buchanan  
Bucshon  
Budd  
Bustos  
Butterfield  
Byrne  
Calvert  
Carter (TX)  
Cartwright  
Castro (TX)  
Chabot  
Chu, Judy  
Cicilline  
Clay  
Cleaver  
Cohen  
Cole  
Collins (NY)  
Comer  
Comstock  
Cook  
Cooper  
Cramer  
Crawford  
Crist  
Culberson  
Davidson  
Davis (CA)  
Davis, Danny  
DeGette  
DeLauro  
DelBene  
Demings  
Torres  
Tsongas  
Vargas  
Veasey  
Velázquez  
Visclosky  
Walz  
Wasserman  
Schultz  
Waters, Maxine  
Watson Coleman  
Welch  
Yarmuth

Scott, Austin  
Scott, David  
Sensenbrenner  
Sessions  
Shea-Porter  
Sherman  
Shimkus  
Shuster  
Simpson  
Smith (NE)  
Smith (NJ)  
Smith (TX)  
Smith (WA)  
Speier  
Stefanik

Stewart  
Takano  
Taylor  
Thornberry  
Tiberi  
Titus  
Trott  
Tsongas  
Upton  
Vela  
Wagner  
Walden  
Walker  
Walorski  
Walters, Mimi

Walz  
Wasserman  
Schultz  
Webster (FL)  
Welch  
Wenstrup  
Westerman  
Williams  
Wilson (SC)  
Wittman  
Womack  
Yarmuth  
Young (IA)  
Zeldin

## NAYS—184

Aguilar  
Amash  
Babin  
Barragán  
Bass  
Bera  
Bergman  
Beyer  
Biggs  
Bishop (MI)  
Blum  
Blunt Rochester  
Bost  
Boyle, Brendan F.  
Brownley (CA)  
Buck  
Burgess  
Capuano  
Carbajal  
Cárdenas  
Carson (IN)  
Carter (GA)  
Castor (FL)  
Cheney  
Clark (MA)  
Clarke (NY)  
Clyburn  
Coffman  
Collins (GA)  
Conaway  
Connolly  
Conyers  
Correa  
Costa  
Costello (PA)  
Courtney  
Crowley  
Cuellar  
Curbelo (FL)  
Davis, Rodney  
DeFazio  
Delaney  
Denham  
DeSantis  
DeSaulnier  
Doyle, Michael F.  
Duffy  
Españat  
Esty (CT)  
Faso  
Fitzpatrick  
Flores  
Foxy  
Fudge  
Gaetz  
Gallagher  
Gallego  
Gibbs  
Gomez  
Gonzalez (TX)

## ANSWERED “PRESENT”—3

Ellison  
Rice (SC)  
Tonko

## NOT VOTING—20

Brady (PA)  
Bridenstine  
Cummings  
DesJarlais  
Garrett  
Gohmert  
Grijalva  
Hoyer  
Hudson  
Huffman  
Johnson (GA)  
Johnson, E. B.  
Luján, Ben Ray  
Pascarell  
Pocan  
Polis  
Roybal-Allard  
Scalise  
Thompson (MS)  
Wilson (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining.